



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

VIA ELECTRONIC MAIL
DELIVERY RECEIPT REQUESTED

Brayden Fleece, Member
Fleece Performance, LLC
2400 Commerce Way
Pittsboro, IN 46167

Chase Fleece, Member
Fleece Performance, LLC
2400 Commerce Way
Pittsboro, IN 46167

c/o Stewart D. Cables, Managing Partner
Hassan + Cables, LLC
stewart@hassancables.com
Counsel for Fleece Performance, LLC

Re: Finding of Violation for Clean Air Act Violations
Fleece Performance, LLC

Dear Messrs. Fleece:

The U.S. Environmental Protection Agency is issuing the enclosed Finding of Violation (FOV) to Fleece Performance, LLC (Fleece or you) for violating Section 203(a)(3)(A) and (B) of the Clean Air Act (CAA), 42 U.S.C. § 7522(a)(3)(A) and (B). As summarized in the attached FOV, EPA has determined that Fleece removed and/or rendered inoperative devices or elements of design installed by the original equipment manufacturer on or in motor vehicles and motor vehicle engines in order to comply with CAA emission standards. Additionally, Fleece sold, offered to sell, and installed parts or components that bypass, defeat, or render inoperative these same devices or elements of design.

We are offering you an opportunity to confer with us about the violations alleged in the FOV. The conference will give you an opportunity to present information on the specific findings of violation, any efforts you have taken to comply, and the steps you will take to prevent future

violations. In addition, in order to make the conference more productive, we encourage you to submit to us any information responsive to the FOV prior to the conference date.

Please plan for your company's technical and management personnel to attend the conference to discuss measures that you can take to come into compliance with the CAA. You may have an attorney represent you at this conference.

The EPA contacts in this matter are Cody Yarbrough and Sarah Clark. You may call them at (312) 886-9137 or (312) 886-9733 or contact them by email at yarbrough.cody@epa.gov or clark.sarah@epa.gov to request a conference. You should make the request within 10 calendar days following receipt of this letter. We should hold any conference within 30 calendar days following receipt of this letter.

Sincerely,

Brian Dickens,
Chief, Air Enforcement and Compliance Assurance Section (MN/OH)

Enclosure: SBREFA fact sheet

cc: Stewart Cables
Hassan + Cables
stewart@hassancables.com

Phil Perry, Chief
Air Compliance Branch
Office of Air Quality
Indiana Department of Environmental Management
PPERRY@idem.IN.gov

1. Title II of the CAA, 42 U.S.C. §§ 7521–7554, was enacted to reduce air pollution from mobile sources. In enacting the CAA, Congress found, in part, that “the increasing use of motor vehicles . . . has resulted in mounting dangers to the public health and welfare.” Section 101(a)(2) of the CAA, 42 U.S.C. § 7401(a)(2). Congress’s purpose in enacting the CAA included “to protect and enhance the quality of the Nation’s air resources so as to promote the public health and welfare and the productive capacity of its population,” and “to initiate and accelerate a national research and development program to achieve the prevention and control of air pollution.” Section 101(b)(1)–(2) of the CAA, 42 U.S.C. § 7401(b)(1)–(2).
2. EPA promulgated emission standards for particulate matter (PM), nitrogen oxides (NO_x), and other pollutants applicable to motor vehicles and motor vehicle engines, under Section 202 of the CAA, 42 U.S.C. § 7521. *See* 40 C.F.R. Part 86.
3. Section 203(a)(1) of the CAA, 42 U.S.C. § 7522(a)(1), prohibits a motor vehicle manufacturer from selling a new motor vehicle in the United States unless the motor vehicle is covered by a certificate of conformity. EPA issues certificates of conformity to motor vehicle and motor vehicle engine manufacturers under Section 206(a) of the CAA, 42 U.S.C. § 7525(a), to certify that a particular group of motor vehicles and motor vehicle engines conform to applicable EPA requirements governing motor vehicle emissions. The certificate of conformity will include, among other things, a description of the motor vehicle engines, their emission control systems, all auxiliary emission control devices and the engine parameters monitored.
4. Motor vehicle and motor vehicle engine manufacturers employ many devices and elements of design to meet emission standards. *Element of design* means “any control

system (i.e., computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine.”
See 40 C.F.R. §§ 86.094-2 and 86.1803-01.

5. To meet the emission standards in 40 C.F.R. Part 86, and qualify for a certificate of conformity, diesel-powered motor vehicle and motor vehicle engine manufacturers may utilize control devices or elements of design such as Diesel Particulate Filter (DPF), Exhaust Gas Recirculation (EGR), Diesel Oxidation Catalyst (DOC), and/or Selective Catalytic Reduction (SCR) systems.
6. Diesel-powered motor vehicle and motor vehicle engine manufacturers may also employ retarded fuel injection timing as a primary element of design to limit emissions of NO_x. *See* 59 Fed. Reg. 23,264 at 23,418 (May 5, 1994) (“[I]njection timing has a very significant impact on NO_x emission rates, with advanced timing settings being associated with higher NO_x . . .”).
7. Modern motor vehicles and engines are equipped with electronic control modules (ECMs). ECMs continuously monitor engine and other operating parameters and control the emission control devices and elements of design, such as the DPF, EGR, SCR systems and the engine fueling strategy.
8. Under Section 202(m) of the CAA, 42 U.S.C. § 7521(m), EPA promulgated regulations for motor vehicles manufactured after 2007 that require motor vehicles to have a number of devices or elements of design that, working together, can detect problems with the vehicle’s emissions-related systems, alert drivers to these problems, and store electronically-generated malfunction information. *See* 40 C.F.R. §§ 86.007-17, 86.010-18, and 86.1806-05. These devices or elements of design are referred to as “onboard diagnostic systems” or “OBD” systems.
9. Section 203(a)(3)(A) of the CAA, 42 U.S.C. § 7522(a)(3)(A), makes it unlawful for “any person to remove or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with the regulations under [Title II of the CAA] prior to its sale and delivery to the ultimate purchaser, or for any person knowingly to remove or render inoperative any such device or element of design after such sale and delivery to the ultimate purchaser.”
10. Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B), makes it unlawful for “any person to manufacture or sell, or offer to sell, or install, any part or component intended for use with, or as part of, any motor vehicle or motor vehicle engine, where a principal effect of the part or component is to bypass, defeat, or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under [Title II of the CAA], and where the person knows or should know that such part or component is being offered for sale or installed for such use or put to such use.”

11. Section 216(2) of the CAA, 42 U.S.C. § 7550(2), defines “motor vehicle” as “any self-propelled vehicle designed for transporting persons or property on a street or highway.” See *also* 40 C.F.R. § 85.1703 (further defining “motor vehicle”).
12. Section 302(e) of the CAA, 42 U.S.C. § 7602(e), defines “person” to include a corporation.

Facility Background

13. Fleece is a motor vehicle and engine repair shop and aftermarket automotive parts supplier and installer located in Pittsboro, Indiana.
14. Fleece is a “person,” as that term is defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
15. On November 13, 2019, EPA inspected a facility operated by the Fleece Group (including Fleece Performance, LLC; Fleece Performance Engineering, Inc., Fleece Racing Engines, Inc. d/b/a Freedom Racing Engines, Inc.) located at 2400 Commerce Way, Pittsboro, Indiana.
16. On April 21, 2020, under Section 208 of the CAA, 42 U.S.C. § 7542, EPA issued a Request to Provide Information Pursuant to the CAA (Information Request) to the Fleece Group for the period from January 1, 2018 through the date of the Information Request.
17. On July 15, 2020, the Fleece Group submitted a response (“Response”) to EPA’s Information Request. The Response included a spreadsheet containing details and quantities of products that were sold and installed by Fleece during the period covered by the Information Request. The Response also included PDF invoices corresponding with the products that were sold or installed by Fleece as identified in the spreadsheet.
18. In the Response, the Fleece Group provided information showing that between January 1, 2018, and April 28, 2020, Fleece offered to sell and sold at least 600 aftermarket automotive parts or components that disable, remove, bypass, defeat, or render inoperative air pollution emission control systems installed on or in motor vehicles and motor vehicle engines in compliance with Title II of the CAA (“Defeat Devices”).
19. Of the at least 600 Defeat Devices that Fleece offered to sell and sold, at least 210 remove or bypass the EGR system or can only operate with the EGR system removed (“EGR Delete Hardware”). Fleece installed at least 170 of these EGR Delete Hardware products.
20. Of the at least 600 Defeat Devices that Fleece offered to sell and sold, at least 180 remove or bypass one or more aftertreatment emission control devices, such as the DOC, DPF, and/or SCR (“Aftertreatment Delete Hardware”). Fleece installed at least 144 of these Aftertreatment Delete Hardware products.
21. Of the at least 600 Defeat Devices that Fleece offered to sell and sold, at least 210 were aftermarket tunes or tuners, where a principal effect of the tune or tuner was to bypass,

defeat or render inoperative emissions-related devices or elements of design installed in or on motor vehicles or motor vehicle engines, including, but not limited to, the engine fueling strategy, DPF, EGR, DOC, SCR, OBD systems, and/or emissions-related elements of the ECM (“Tuning Products”). Fleece installed at least 183 Tuning Products.

Violations

22. EPA finds that Fleece violated Section 203(a)(3)(A) of the CAA, 42 U.S.C. § 7522(a)(3)(A), by knowingly removing and/or rendering inoperative the engine fueling strategy, DPF, EGR, OBD, and SCR systems, and tampering with the emissions-related elements of the ECM installed on motor vehicles.
23. EPA finds that Fleece violated Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B), by selling, offering to sell, and/or installing parts or components, including EGR Delete Hardware, Aftertreatment Delete Hardware, and Tuning Products, where a principal effect of the part or component was to bypass, defeat or render inoperative emissions-related devices or elements of design installed in or on motor vehicles or motor vehicle engines, including the engine fueling strategy, DPF, EGR, DOC, OBD, and/or SCR systems, and/or other emissions-related elements of the ECM, where it knew or should have known that such parts or components were being offered for sale or installed for such use or put to such use.

Environmental Impact of Violations

24. These violations may result in excess emissions of PM, NO_x, hydrocarbons, and other air pollutants and contribute to increased ground level ozone concentrations. PM, especially fine particulates containing microscopic solids or liquid droplets, can get deep into the lungs and cause serious health problems, including decreased lung function; chronic bronchitis; and aggravated asthma. Exposure to ground-level ozone can also reduce lung function and inflame lung tissue; repeated exposure may permanently scar lung tissue.

Enforcement Authority

25. EPA may bring an enforcement action for these violations under its administrative authority or by referring this matter to the United States Department of Justice with a recommendation that a civil complaint be filed in federal district court. CAA §§ 204 and 205, 42 U.S.C. §§ 7523 and 7524. Persons violating Section 203(a)(3) of the CAA, 42 U.S.C. § 7522(a)(3), are subject to actions to restrain such violations under Section 204 of the CAA, 42 U.S.C. § 7523, and a civil penalty of up to \$4,819 for each violation under Section 205(a) of the CAA, 42 U.S.C. § 7524(a), and 40 C.F.R. § 19.4.

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division